

ARTICLE 10. LANDSCAPE & BUFFERING REQUIREMENTS

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SECTION 10.01 PURPOSE AND APPLICATION

The intent of this Article is to provide procedures and standards for review and approval of site and **development** plans to ensure they comply with the **landscaping** provisions of this Article and meet the **development** policies established by the Town.

(A) *Purpose.*

- (1) To regulate site planning and **landscaping** in order to:
 - (a) Enhance and preserve the economic and aesthetic qualities of the Town as an attractive and progressive community;
 - (b) Protect and maintain the value of existing property;
 - (c) Lessen traffic congestion and minimize traffic safety problems;
 - (d) Preserve and enhance the natural resources of the Town in order to provide aesthetic and other public benefits, such as **pollution** abatement, erosion and run-off control, energy conservation, enhancement of property values, minimization of **flood** hazards, and continued maintenance of the ecology systems;
 - (e) Minimize any adverse impacts of new **development** on existing uses through provision of screening, **buffering, landscaping**, and other commonly established and accepted techniques; and
 - (f) Protect public investment by mitigating impacts generated by new **development** on existing public facilities and utilities.

(B) *Application.*

- (1) This Article and all its divisions shall apply to all new residential, commercial and **substantially improved** structures within the entire area covered by the town's zoning authority including the areas known as the mainland, beach and extraterritorial jurisdiction unless expressly exempted within this Article.
- (2) For the purposes of applying this Article, "residential" shall consist of all single family and duplex, triplex, or quad-plex residential structures or structures

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containing 2-4 attached units on one lot. The intent of this section is to address individual residential structures containing the aforementioned number of units on a single piece of land. All other development types shall be considered "nonresidential" development.

- (3) When, for any reason, an existing business, without a previously approved **landscaping** plan ceases to operate in a nonresidential business district and a new business seeks to operate on that same site, the property owner shall submit to the **UDO Administrator** a **landscaping** plan as required in Subsection (C) below.
 - (4) For existing businesses with a previously approved, but legally nonconforming **landscaping** plan, and a new business seeks to operate on the same site, the **UDO Administrator** shall require conformance and maintenance of the existing, approved plan. If conformance to the existing plan is not achievable or undesirable by the applicant as outline in (3) above, the applicant may submit a new plan that shows conformance with this Article.
 - (5) In all cases, any **landscaping** plans associated with a legal, nonconforming use shall be subject to all requirements for nonconforming situations found in Article 8.
- (C) *Administration and Enforcement.*
- (1) Prior to the issuance of a building or zoning permit for any activity outlined in Subsection (B) above, a **landscaping** plan shall be prepared and reviewed in conformance with the provisions of this Article and shall be submitted to and approved by the **UDO Administrator**.
 - (2) No **certificate of occupancy** shall be approved by the Building Inspector until the required **landscaping** is completed in accordance with the approved plan. In cases where circumstances outside of the control of the developer or property owner (i.e. natural disaster) prevent the installation of **landscaping** prior to the issuance of certificate of occupancy, the Planning Board may approve an extension up to 180 additional days.
 - (3) Any person, firm, or corporation who violates any provision of this article shall be subject to the penalty provided in Section 1.12 of the Town's Unified Development Ordinance.

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- (4) Planting and design standards of this ordinance may be altered at the discretion of the Planning Board upon the recommendation of the **UDO Administrator** to resolve issues emanating from unusual site conditions or configuration so long as the proposed plan is of equal or better performance to the stated standard.
- (D) *Exemptions.*
- (1) All bona fide agricultural land use is exempt from this section.
 - (2) In CAMA Areas of Environmental Concern, any lot or portion thereof that has been designated as a CAMA buffer shall be exempt from the **landscaping** requirements in deferment to the CAMA regulations that apply.
 - (3) Frontal dunes shall be exempt from the **landscaping** requirements, as set forth in this Article. However, owners of properties with frontal dunes shall plant approved vegetation in accordance with Section 10.02(B)(7).

SECTION 10.02 GENERAL LANDSCAPING AND SUBMITTAL REQUIREMENTS

- (A) **Landscaping Plans.** A **landscaping** plan and general application shall be submitted to the **UDO Administrator**. The **landscaping** plan shall be reviewed by the **UDO Administrator** for all permitted uses. **Landscaping** plans shall not be required for single family and duplex homes on a single lot; however, the requirements specified in Section 10.05 shall be satisfied prior to issuance of a Certificate of Occupancy.
- (1) A **landscaping** plan shall be submitted and approved prior to issuance of a building permit.
 - (2) **Landscaping** Plans shall contain the following information:
 - (a) Name, address, and telephone number of the owner of the site; address of **development** site; name, address, and telephone number of the **applicant** if contractor, or agent of the property owner.
 - (b) Date of plan preparation.
 - (c) Project name and description of land use.
 - (d) A plan at a scale as appropriate to size and scope of project showing:

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1. North arrow.
 2. Graphic scale.
 3. Locations and species of all **heritage trees**, as defined in Appendix A. If groves of **heritage trees** exist that will not be removed or disturbed, it is permitted to label the grove as such on the plan, stating the approximate number of trees, without specifying data on each individual tree. Reasons for removing **heritage trees** shall be explicitly stated on the plan.
 4. Any proposed grade changes which might adversely affect or endanger any tree to be retained with a statement of how the tree is to be protected and maintained.
 5. Locations, dimensions, and square footage of required **buffer** strips and **parking lot landscaping**.
 6. Details of required **landscaping** showing species, dimensions, and spacing of planted materials and the use and protection of existing vegetation.
 7. Location and square footage of **structures** and improvements, **parking lots**, existing and/or proposed utility services roadways, bikeways, and walkways.
 8. Adjacent **zoning** districts.
 9. Current **zoning** of the property.
 10. Approximate locations of all trees greater than ten (10) inches diameter within required **buffer**.
- (3) Proposed schedule for **landscaping** implementation.
- (4) If any new or retained tree shown on the approved **site plan** dies or is removed by the property owner within one (1) year after the issuance of the **certificate of**

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occupancy or the granting of *final plat* approval, it shall be replaced by planting a new tree having a minimum caliper of two (2) inches.

- (5) The property owner understands and agrees to perpetual maintenance of **landscaping** that meets the minimum requirements of this section, including timely maintenance of components of the **landscaping** on which neglect may result in health and human safety issues as specified herein.

(B) *General **Landscaping** Requirements.*

(1) Existing natural vegetation should be retained and preserved whenever possible and may be included as part of the minimum requirements. Installation of vegetation indigenous to the immediate natural coastal ecosystem is preferred to promote proper plant life development and maturation. A list of trees and shrubs indigenous to this area is available at the Town Hall.

(2) If any **heritage trees**, are to be cleared from the site, reasons for doing so shall be clearly stated on the landscape plan. Suitable reasons for clearing one or more of these trees could include such factors as it is impossible to position buildings on the lot and meet **setback** requirements without tree removal. Unsuitable reasons include such factors as more parking than the minimum specified is desired or that non-selective clearing by builder is less expensive than selective clearing.

(3) Only **landscaping** fabric which allows rain water to flow through is permitted. Solid plastic cover is prohibited.

(4) Ground cover is mandatory on all portions of exposed ground or earth not occupied by other approved landscape material.

(5) Any component or any portion of a private septic system or other private sewage treatment system that is above grade shall be screened with **landscaping** components and approved as part of the overall **landscaping** plan.

(6) Plantings and/or privacy fencing should result in a screening of utility areas and from adjacent yards.

(7) Owners of properties with **primary frontal dunes** shall plant approved vegetation on at least 25 percent of the frontal dune area. Approved vegetation includes, but is not limited to, American Beach Grass (Fall/Winter planting), Sea Oats (Spring/Summer planting), Seashore Elder (Spring planting), Bitter Panicum (Spring/Summer planting) and Spartina Patens (Spring planting).

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Section 10.03 Maintenance

In order for any screening to fulfill the purpose for which it was established, it must be properly maintained. The owner of the property, or other responsible party, where screening is required will be jointly and severally responsible for the maintenance of all required screening materials. Maintenance includes actions necessary to keep screening materials healthy, neat and orderly in appearance, and free of litter and debris. Any live screening materials such as shrubs and trees which may die must be replaced in compliance with the minimum standards of this Ordinance.

All screening and **landscaping** areas must be protected from damage by motor vehicles or pedestrians which could reduce the effectiveness of the screening. Landscaped areas shall be kept in a proper, neat, and orderly appearance and free from refuse and debris. All unhealthy or dead plant material shall be replaced by the property owner or tenant. Failure to maintain the required landscape materials shall constitute a zoning violation and shall be remedied in accordance with the provisions of Article 1, Section 1.12.

SECTION 10.04 NONRESIDENTIAL LANDSCAPING REQUIREMENTS

(A) *General*

A minimum of fifteen (15) trees at least two (2) inches in diameter, measured four and one half (4.5) feet above ground, shall be retained or planted on the lot for each acre of **development**, or shall be prorated accordingly.

(B) *Planting Areas along Boundaries of Right-of-Ways.*

- (1) For every fifty (50) feet of **lot frontage** along any **street**, a planting area fifteen (15) feet in depth immediately interior to the road right-of-way shall contain one (1) tree eight (8) feet in height, or three (3) flowering trees five (5) feet in height, and six (6) shrubs eighteen (18) inches in height. Height measurements shall be at time of planting.
- (2) Adequate sight angles as required by North Carolina Department of Transportation roadway standards shall be maintained in accordance with Article 2, Section 2.08 Sight Visibility Triangle of the Town of Sunset Beach Unified Development Ordinance (UDO).

(C) *Interior Planting Areas.*

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- (1) Interior **landscaping** shall be provided equal to eight percent (8%) of the gross paved area to be used for parking, loading, or vehicular use. **Landscaping** shall be in the form of planting islands, either separate or protruding from the perimeter **landscaping**.
 - (2) Each island shall be a minimum of eight (8) feet in width and no less than one hundred (100) square feet overall. Each island shall contain at least one (1) tree eight (8) feet in height and six (6) shrubs eighteen (18) inches in height at planting.
 - (3) Consecutive **parking spaces** shall incorporate landscaped peninsulas no more than fifteen (15) spaces apart and at the ends of all parking rows. Peninsulas shall contain one hundred forty-four (144) square feet of area and be at least eight (8) feet in width. When a business establishment is required to provide over three hundred (300) **parking spaces** by the Town's Ordinance, the **Planning Board** may waive the requirement for a **landscaping** island every fifteen (15) consecutive spaces if: 1) the parking area and **landscaping** islands are located to the rear or sides of the building, and 2) the parking area is not visible from any public right-of-way from which the business establishment has ingress and egress. If the **Planning Board** waives the fifteen (15) consecutive space requirements for **landscaping** islands, a **landscaping** island must be installed at a maximum of every thirty (30) consecutive spaces. All other applicable **landscaping**, dimensional and parking requirements shall apply.
 - (4) All interior plantings, including islands, shall be curbed or blocked for protection.
- (D) **Buffer Strips.** **Buffer** strips shall be required when a nonresidential use is developed immediately adjacent to an existing residential use or zone. Approved type screening shall also be required to shield outside storage areas, loading/unloading areas, heating and air conditioning units, dumpsters, or trash storage areas. The Planning Board may modify or waive the requirements of a **buffer** where it can be demonstrated by the property owner that the specified screening **buffer** is not needed for the protection of surrounding residential areas because of intervening **streets**, roadways, drainage ways, or other factors such as natural growth of sufficient height and density to serve the same purpose as the required screening **buffer**.

The following means to create a **buffer** shall be used:

- (a) Natural vegetation may be retained to meet this requirement.

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(b) One (1) or more of the following means shall be used to supplement the natural vegetation as necessary or to provide an adequate **buffer** where no natural vegetation exists:

1. *Planted **Buffer Strips***. The planted **buffer** strip shall be at least six (6) to eight (8) feet tall and give approximately seventy-five percent (75%) visual opacity within one (1) year of planting. Three (3) rows of planted materials shall be required to a minimum depth of fifteen (15) feet; or
2. *Combination Planting with Privacy Fencing or Wall*. **Fences** or walls shall be uniform in design, construction, and material. The **fence** or wall shall be brick, vinyl, decorative cement block, stucco, maintenance-free metal, or treated wood (excluding any type of plywood or lattice sheets) or any combination.

Height adjustments shall be made by vertical steps not to exceed the maximum height of fences allowed in the applicable zoning district. Both sides of a **fence** or wall must be equal in construction and appearance. The **fence** or wall shall extend along the property line. One (1) row of planted materials shall be required with a fence to a minimum depth of five (5) feet and give approximately seventy-five percent (75%) visual opacity within one (1) year of planting; or

3. *Living Fence*. Living fences are permitted and encouraged. These are open support structures that allow vegetation to grow on, through or as part of the structure as support whereby the resulting buffer is a mature, vegetative wall or screen with no readily visible portion of the underlying structure is shown. The vegetation shall be installed to a minimum depth of five (5) feet and such that seventy-five percent (75%) visual opacity within one (1) year of planting is attained and remain in such condition throughout the year; or
4. *Earthen Berms in Conjunction with Planted Vegetation*. The berm shall be at least four (4) feet high and stabilized with permanent grass or sod within thirty (30) days of construction during normal planting seasons. The use of temporary rye grass will be allowed

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during winter months but shall be replaced with permanent grassing within thirty (30) days of the beginning of the next normal growing season. Temporary rye grass is not considered as permanent grassing.

The total height of the berm and planted vegetation shall be a minimum of six (6) feet high and provide seventy-five percent (75%) visual opacity within one (1) year of planting. The slope of the berm shall be no steeper than 3:1. It shall have a level or rounded area on top and be constructed of compacted earth.

(E) *Maintenance and Uses within the **Buffer Strip**.*

- (1) All berms and planted living material shall be adequately maintained and irrigated by the owner of the property on which it is located. Any plantings, which become diseased or die, shall be replaced by the owner on a continuing basis for the **development** in order to maintain seventy-five percent (75%) visual opacity. Storm water retention ponds shall be encouraged to be integrated into the landscape plan.
- (2) No activities shall occur in the **buffer** except for maintenance of the **buffer** and the installation and maintenance of water, sewer, electrical, and other utility systems.

(F) *Critical Root Zone.*

- (1) Sunset Beach recognizes the importance of adequately protecting trees during the construction phase of **developments**. To this end, no excavation or other subsurface disturbances may be undertaken within the **critical root zone** of a tree. Said **critical root zone** shall be marked by means of a barrier **fence**. In cases where, because of utility extension, sidewalk installation, or other site improvements, it is neither prudent nor possible to avoid land disturbance activity in the **critical root zone** area, the developer shall, upon consultation with the **UDO Administrator**, provide the Town with a root disturbance mitigation plan which shall outline a specific course of action for minimizing damage to a tree's root system.
- (2) If space that would otherwise be devoted to parking cannot be so used because of the requirements of Subsection (F)(1) and, as a result, the parking requirements

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set forth in Article 9, Part II, cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" up to a maximum of fifteen percent (15%) of the required spaces.

SECTION 10.05 RESIDENTIAL LANDSCAPING REQUIREMENTS

(A) *Minimum Landscaping Standards*

- (1) The required **landscaping** rate and planting shall be selected and illustrated on the **landscaping** plan, when required, and result in a minimum material point value based upon the following:

Table 10-1. Point-based required landscaping rate

LOT SIZE	REQUIRED POINT VALUE
Island Lots	36
Mainland lots	
≤ 9,000 sq. ft.	36
> 9,000 sq. ft.	Additional 3 points per 1,500 additional sq. ft. of lot area. Maximum 72 points

- (2) The total required landscaping rate as outlined in Table 10-1 above may be met by accumulating points according to the following schedule:

Table 10-2. Point-based planting matrix

MATERIAL TYPE	POINT VALUE
3 or More Existing Trees	10
New Large Tree (20 gal min.)	6
New Small to Medium or Ornamental Tree (10-15 gal. min.)	4
New Large Shrub (10 gal min.)	3
New Medium Shrub (5 gallon)	2
New Small Shrub (3 gallon)	1
Sod	3
Irrigation System	3
Utilizing Xeriscaping Methods	3

- (3) In the instance where calculating lot size results in a fraction of the required 1,500 sq. ft. requirement, then the fraction shall be rounded up to the next applicable amount requiring action.

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- (4) A minimum of 50% of the required points shall be located in the front yard or area of the lot between the primary facade of the structure at its front entrance and the street. The **UDO Administrator** shall determine front yard area.
- (5) There is no material point value for ground covers other than sod (such as natural ground cover, pine straw and other typical ground cover material). Utilization of xeriscaping methods (drought tolerant plants, waterless landscaping, etc.) may be permitted. Point values for xeriscaping shall be added only when appropriate plant materials are used for that method of landscaping. Privacy fencing has no material point value, but may be used to screen air conditioning units or heat pumps.

SECTION 10.06 PRESERVATION OF TREES

(A) Purpose. The purpose of this section is:

- (1) To recognize the importance of mature trees to the quality of life;
- (2) To conserve energy and retard storm water runoff;
- (3) To safeguard and enhance property values and to protect public and private investment through protection of significant **existing trees**; and
- (4) To prevent the indiscriminate removal of trees.
- (5) To protect trees considered valuable to the Town of Sunset Beach as defined in Appendix C, **Heritage Trees**/Plant List.

(B) Heritage Tree Survey

(1) A heritage tree survey shall be required for any multi-family development, nonresidential development, major subdivision or planned unit development along with appropriate application for a site plan, preliminary plat, or special use permit. The heritage tree survey shall show the general location, species and size of any tree. However, a heritage tree survey shall not be required for land in the floodway (unless filled or developed in accordance), preserved wetlands and wetlands buffers, steep slope areas, and stream buffers.

(2) Having better information about the location of heritage trees is not especially useful where plans call for the preservation of large areas of undisturbed vegetation. An example is the pervious portions of developments in watershed protection districts. Producing such information adds to the project's cost without providing information that could result in project redesign. Where unique site conditions or a proposed development arrangement indicate that the required heritage tree survey would produce little useful information, the Planning Board shall have the authority to waive the requirements for a heritage tree survey for all or a portion of the tract.

(C) Permit Required for Heritage Tree Removal.

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(1) No person, land owner, golf course, or corporation directly or indirectly, shall remove any **heritage tree** from private property without first obtaining a tree removal permit as provided in this chapter. The requirement for tree removal permits shall apply within the entire area covered by the Town's **zoning** authority including the areas known as the mainland, beach, and extra territorial jurisdiction except a lot occupied by a **single-family** home. A tree removal permit is not required for non-heritage trees. See Appendix C for a listing/definition of such trees.

(2) All persons seeking a permit for removal of a **heritage tree** shall make applications to the UDO Administrator.

(3) The UDO Administrator shall issue a tree removal permit if the **applicant** demonstrates one (1) or more of the following situations:

(a) For **new construction**, the **applicant** is able to show that essential site improvements cannot be installed without removal of the **heritage tree(s)**. Examples of essential site improvements are the principal/**accessory building(s)**, **off-street** parking, driveway, storm water management facilities;

(b) The **heritage tree** is dead, severely diseased, injured, or in danger of falling close to existing or proposed **structures**;

(c) The **heritage tree** poses an identifiable threat to individuals or **public safety**; and/or

(d) Removal of the **heritage tree** is necessary to enhance or protect the health or condition of adjacent trees and/or golf course tee box/fairway/putting green turf.

(4) Moving **heritage trees** is encouraged if adequate care is taken to ensure survival of the tree.

(5) **Heritage trees** permitted to be removed shall be replaced on a one (1) for one (1) basis with an approved tree. Replacement trees shall be planted at minimum caliper of 2 inches at 4.5 feet above ground and be of a species identified in the Canopy or Understory Tree list contained in Appendix C of this ordinance.

(D) Requirements for Heritage Tree Removal Permit Application.

(1) Brief written description of the reason for removal of the heritage tree(s) in accordance with Section 10.06 (C)(3).

(2) A **heritage tree** survey, prepared by a professional surveyor, professional engineer,

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landscape architect, golf course superintendent, or licensed arborist, showing the approximate location of all **heritage trees** or groups of trees, property lines, location and **footprint** of any and all existing or proposed buildings and **structures**, and the removal plan must identify the size, species, height, drip line, and health of all **heritage trees** and groups of trees.

- (3) A description of the methods proposed to move a **heritage tree**, if applicable.
- (4) Photographs of trees, or groups of trees, to be removed.
- (5) The location of all heritage ~~tree~~ replacement trees shall be provided on the heritage tree survey, landscape plan, and/or site plan. Replacement trees shall be clearly identified and must include planting size and species. A planting schedule/list may accompany the plan/survey as necessary.
- (6) Any other information that may be required by the UDO Administrator to issue the permit.
- (7) The UDO Administrator may require a report from an arborist, horticulturalist, or other Town-approved professional regarding the health of a tree to be removed.

(E) Tree Removal for Golf Course Operations

Golf courses may remove trees (heritage or otherwise) based on the following standards:

- (1) Any **golf course** operation may remove up to twenty-five (25) **trees** of any variety per year without justification per 18 hole course.
- (2) A permit will be required for tracking purposes; however, no basis for removal is required for up to twenty-five (25) trees annually. A heritage tree survey shall still be required.
- (3) All **heritage trees** removed shall be replaced in accordance with 10.06 (C)(5).
- (4) For all trees in excess of twenty-five (25), **golf courses** must complete a survey of the areas proposed for tree removal and seek justification for removal as per 10.06(C)(3). All other provisions of the ordinance regarding **heritage trees** must be met.
- (5) Any golf course operation may remove any tree not deemed to be a **heritage tree** within 15 ft. of any clearly identified and functioning cart path on their own property without justification or permit. **Heritage trees** within 15 ft. of a cart path must meet the standards in 10.05(B) above.

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SECTION 10.07 TREE CLEARING PROVISIONS

- (A) *Purpose.* The Tree Clearing Certificate requirement has been developed to implement the enabling legislation granted to the Town by the North Carolina General Assembly. The purposes of these regulations are to:
- (1) Protect existing trees and shrubs located upon undeveloped sites for use as future buffers and streetscapes to meet development plan requirements;
 - (2) Preserve existing tree and vegetative cover to protect the health, safety, and welfare of the public by preserving the visual and aesthetic qualities of the Town; maintaining property values; controlling erosion; and reducing sediment and other pollutant run-off into streams and waterways in an effort to protect water quality; and
 - (3) To create a process whereby some properties are required to obtain a tree clearing certificate, recognize some properties are exempted from the requirement to obtain a tree clearing certificate prior to the removal of vegetation, and establish penalties for removal of all or substantially all of the required vegetation within required vegetation protection areas.
- (B) *Applicability.* The requirements for obtaining a Tree Clearing Certificate and penalties for non-compliance are applicable to all undeveloped properties which are zoned for residential or nonresidential use located within the Town Limits and/or Extraterritorial Jurisdiction (ETJ). For the purposes of this section, undeveloped properties shall include any property within the Town's jurisdiction which is not subject to an approved development plan.
- (C) *Exemptions from Tree Clearing Certificates.* The requirement to obtain a Tree Clearing Certificate shall not apply to the activities listed below.
- (1) Normal forestry activities taking place on property which is taxed under the present-use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the North Carolina General Statutes, and provided such activities are accomplished in compliance with Section 10.07(G).

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- (2) Properties with a Town-approved development plan, provided such plan has not expired and that any clearing or vegetation removal is done in strict accordance with the approved development plan.
 - (3) The removal of vegetation by public or private agencies within the lines of any public street right-of-ways, utility easements, or other Town property, as may be necessary to ensure public safety, to obtain clear visibility at driveways or intersections, to perform authorized field survey work, or to preserve or enhance the symmetry and beauty of such Town property.
 - (4) The Town-initiated or approved removal of any vegetation which is in an unsafe condition, constitutes a nuisance or noxious weed, or which by its nature is injurious to sanitary sewers, electrical power lines, gas lines, water lines, stream or conveyance channels, or other public improvements, or vegetation which is infected with any injurious fungus, insect, or other pest.
 - (5) The removal of vegetation on property located within an approved residential subdivision which is zoned for single family use, and provided such vegetation is not a portion of a required streetscape or other **landscaping** buffer.
- (D) *Required Buffers and Vegetation Protection Areas.* Other than that necessary to gain reasonable access to the property, clearing, and/or removal of trees and other vegetation shall be prohibited in the areas listed below. In situations where one or more buffer zones or vegetation protection areas overlap on the same site, then the more restrictive requirement shall apply.
- (1) A perimeter streetscape zone having a width of fifty (50) feet as measured from all ultimate property boundaries which adjoin existing roadways as depicted in the Sunset Beach Transportation Plan or as required in Section 10.02. For the purposes of this section, the term "ultimate property boundary" of a lot or tract shall mean the final demarcation line around the perimeter of a lot excluding all areas which must be dedicated to the Town for use as right-of-ways.
 - (2) A perimeter buffer zone having a width of sixty-five (65) feet as measured from all property boundaries which adjoin developed property or vacant property with an approved development plan.

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- (3) A perimeter buffer zone having a width of thirty-two (32) feet as measured from all property boundaries which adjoin undeveloped property or vacant property without an approved development plan.
 - (4) Any other areas necessary for the protection of existing vegetation as indicated within this Ordinance (e.g., riparian buffers).
- (E) *Application Requirements.*
- (1) An application for a Tree Clearing Certificate is not required for those activities which can demonstrate an exemption in accordance with the provisions of Section 10.07(C) above.
 - (2) An application for a Tree Clearing Certificate may be filed only by all the owners of the property or by such owner's authorized agent.
 - (3) An application for a Tree Clearing Certificate shall be filed with the Planning and Inspections Department on a form prescribed by the Department, along with the fee prescribed by the Town Council.
 - (4) The application form shall be accompanied by a Vegetation Protection Plan which shall include, at a minimum, the following information:
 - (a) Vicinity map showing the location of the tract at a readable scale.
 - (b) A map of the entire tract, including the property boundary of the entire tract by courses and distances with references to true meridian and the location and dimension of all on-site and adjacent off-site easements (e.g., drainage, utility, public access, aerial utility, conservation, permanent and temporary construction easements).
 - (c) General information about the tract, including but not limited to the owner of the tract, the current zoning of the tract, the area of the tract, and the conditional-use zoning conditions, planned unit development master plan requirements, if applicable.
 - (d) The owner, current zoning, and present use of all contiguous properties (including property on opposite side of adjoining streets).

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- (e) The location and width of all future/existing buffers and associated vegetation protection areas, including riparian buffers, perimeter buffers and perimeter streetscapes.
 - (f) The proposed limits of timbering activities, including the location and extent of all tree protection fencing as required under of this Ordinance.
- (5) The **UDO Administrator** may reduce or waive the requirements for a Vegetation Protection Plan in situations where it can be demonstrated that all vegetation removal will take place outside of required vegetation protection areas.
- (F) *Procedure.* Prior to the commencement of any vegetation clearing or removal on any undeveloped property, the owner or the owner's agent must demonstrate exemption from the requirements of this section, or submit the required application materials and applicable fees for a Tree Clearing Certificate.
- (1) Upon receipt of documentation that a property is exempted from obtaining a Tree Clearing Certificate, the **UDO Administrator** shall review all materials and make a determination if a property is exempted from the requirements, or if the requirements apply. In situations where exemption status is claimed based on forestry use, this documentation shall include proof that the property is taxed under the present-use value standard or a copy of the valid forestry management plan prepared or approved by a North Carolina registered forester. The decision of the **UDO Administrator** may be appealed to the Board of Adjustment.
 - (2) If a property is not exempted from the provisions pertaining to a Tree Clearing Certificate, then such application materials shall include a Vegetation Protection Plan consistent with the requirements listed in Section 10.07(E)(4) above.
 - (3) The Vegetation Protection Plan shall be reviewed by the **UDO Administrator** based upon the provisions of this Ordinance. The **UDO Administrator** may defer the decision on the Vegetation Protection Plan to the Town Council if he or she has concerns about the plans ability to meet the standards of this Ordinance. In the event the **UDO Administrator** disapproves the plan, an appeal may be filed with the Town Council within ten (10) days of disapproval. If an appeal is filed, the Town Council shall decide whether to consider the appeal by majority vote and may affirm, reverse, or modify the **UDO Administrator's** approval.

ARTICLE 10. LANDSCAPE & BUFFERING REQUIREMENTS

- (4) An applicant for a Tree Clearing Certificate shall be notified upon approval of the Vegetation Protection Plan, and shall be free to erect or install any and all barriers necessary to protect existing vegetation within required buffer areas and vegetation protection areas from damage during tree clearing and/or removal activities.
 - (5) Once all barriers for the protection of existing vegetation have been installed, a property owner or agent shall request inspection of such barriers for compliance with the requirements of this Ordinance.
 - (6) Upon a passing inspection of vegetation protection barriers, the **UDO Administrator** shall issue a Tree Clearing Certificate, and authorized vegetation clearing and/or removal may commence.
 - (7) An approved Tree Clearing Certificate shall be valid for a period of not more than twelve (12) months from the date of issuance.
- (G) *Non-Compliance.* Failure to comply with the provisions of this section shall constitute a violation of this Ordinance, and shall subject an offending party to a series of actions, including the payment of fines, delay in development plan approval or building permit issuance. Table 10-3 describes the penalties for non-compliance with this Section. An "X" in a particular cell indicates the associated penalty which applies:

Table 10-3. Penalties for Non-Compliance

Type of Violation	Payment of Fines (based on Section 1.12)	Review of all subsequent Site Plans by Town Council	Five year delay in approval of a Building Permit or Site Plan	Requirement to double the landscaping provisions during Site Plan review
Property is exempt from Tree Clearing Certificate requirements, but all or substantially all* vegetation within required buffers and/or vegetation protection areas is removed		X	X	X
Property owner obtains a Tree Clearing Certificate, but removes some of the vegetation within a	X			X

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required buffer and/or tree protection area				
Property is not exempt from Tree Clearing Certificate requirements; but property owner obtains no Certificate, and removes some of the vegetation within a required buffer and/or tree protection area	X	X		X
Property is not exempt from Tree Clearing Certificate requirements; but property owner obtains no certificate, and removes all or substantially all* of the vegetation within a required buffer and/or tree protection area		X	X	X

* all or substantially all shall mean seventy-five (75) percent or more the existing trees with a caliper of four (4) inches or greater.